

Montana Transportation Commission

December 7, 2006 Meeting

MDT Commission Room
2701 Prospect Avenue
Helena, MT

IN ATTENDANCE

Bill Kennedy, Transportation Commission Chair

Kevin Howlett, Transportation Commissioner
Deb Kottel, Transportation Commissioner
Rick Griffith, Transportation Commissioner
Nancy Espy, Transportation Commissioner
Loran Frazier, MDT Engineering
Mike Neuman, MDT
Sandra Straehl, MDT Rail, Transit & Planning
Lori Ryan, MDT
Jim Lynch, MDT Director
Jim Currie, MDT Deputy Director
Tim Reardon, MDT
Christine Davis, Senator Max Baucus' office
Charity Watt -Levis, MDT Public Involvement

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OPENING – Chairman Bill Kennedy

Chairman Bill Kennedy called the meeting to order at 8:53 a.m. and read through the Meeting Agenda. After the pledge of allegiance, Commissioner Howlett offered the invocation.

Agenda Item 1: Approval of Minutes of October 20, 2006 Regular Meeting, November 13, 2006 Conference Call

Chairman Kennedy asked if there were any additions, deletions, or changes to the Commission Meeting Minutes for October 20, 2006, and November 13, 2006 Conference Call.

Commissioner Espy moved to adopt the minutes as presented. Commissioner Griffith seconded the motion. All five commissioners voted aye.

The motion passed unanimously.

Agenda Item 2: Enhancement Program on MDT Right-Of-Way

Sandra Straehl presented the following Enhancement Program to the Commission:

Background

The Commission approves Community Transportation Enhancement Program (CTEP) projects that are located on or adjacent to state designated streets and roads. The following CTEP projects are funded with the enhancement set-aside of the Surface Transportation Program that is allocated by population to Montana's local and tribal governments. The communities select projects for funding with their allocations and provide required non-federal match. The program is based on an agreement between MDT and Montana local

and tribal governments. The projects proposed for addition to the program are shown below.

Bike/Pedestrian Paths – Kalispell – This enhancement project will design and construct approximately 1.2 miles of new pedestrian facilities consisting of a 10' wide path with benches and landscaping. The project is located adjacent to Woodland Avenue (Urban route U-6726, reference points 0 to 1.2) in the City of Kalispell. The path will link the existing trail in Woodland Park to the proposed Willow Glen trail located approximately 1.5 miles south. The connection will provide a means for bicycles and pedestrians from adjoining neighborhoods to safely access Woodland Park and the Woodland Park trail system.

The estimated total costs are \$195,886 consisting of \$19,588 for preliminary engineering, \$9,793 for construction engineering and \$166,505 for construction. The City of Kalispell's CTEP allocation and local match will be the funding sources for this project. Including this project, the City of Kalispell will have obligated all of the \$996,579 made available through the CTEP Program.

Landscaping - Great Falls - This enhancement project is to construct landscaping in front of the Great Falls Library located at 301 2nd Avenue North. The project will design and implement the removal of a brick wall and fountain, fill in low areas and create a pond feature. A bridge will be constructed over the pond and lead to the main entrance of the library. The landscaping will include trees and shrubs and placement of benches. The project is located at the corner of 2nd Avenue North and 3rd Street (Urban route U-5218, reference points 2.759 to 2.778) in Great Falls. The construction will be adjacent to the right-of-way on 2nd Avenue North for approximately 100'.

The estimated total costs of the project are \$105,673 consisting of \$8,000 for preliminary engineering, \$5,673 for construction engineering and \$92,000 for construction. The City of Great Falls' CTEP allocation and local match will be the funding sources for this project.

Sidewalks & Landscaping - Great Falls – This enhancement project will design and replace 294 lineal feet of deteriorated concrete sidewalk curbs and gutters and improve ADA ramps. The project will also include planting 12 boulevard trees and installing four period lamps and eight granite benches in downtown Great Falls. The enhancements will be designed to match the existing downtown standard details. This is part of a continuing effort to improve the city streetscape within the Business Improvement District in the Great Falls downtown area.

The project is located along the east side of 5th Street South (Urban route U-5224, reference point .62 to .638) from 1st Alley South to 1st Avenue South. The project continues along the north side of 1st Avenue South (Urban route U-5234, reference points .335. to .353) to 142' east of 5th Street. The construction will occur within the City of Great Falls right-of-way.

The estimated total cost for the project is \$152,633 for construction. Initial design concepts and preliminary construction drawings have been provided by L'Heurex, Page Werner (LPW). LPW will also produce the final design and bid documents at no cost to CTEP and as a donation to the City (Business Improvement District). The City of Great Falls' CTEP allocation and local match will be funding sources for this project.

This project, in conjunction with the above Library Landscaping project, will have obligated \$4,697,339 of the \$4,727,879 made available to the City of Great Falls through the CTEP program.

Sidewalks & Landscaping – Choteau – This enhancement project includes on-system and off-system sites and will replace and repair approximately 1600 square feet of sidewalk and remove and replace boulevard trees in the City of Choteau. The sidewalks have deteriorated due to age and upheaval from large cottonwood tree roots. The on-system portion of the project includes five locations along 7th Avenue/Division Street (P-9) between reference points 64.438 and 64.785, and one location on 1st Street NE (Secondary Highway 221) from reference point .158 to .159. Various other off-system sites have been identified for the removal of trees and replacement or repair of the sidewalks.

The estimated total cost for the project is \$28,063 for construction. CTEP staff has determined that the tree removal and sidewalk replacement is simple enough to not require

detailed design drawings, therefore no PE is required. The City of Choteau's CTEP allocation and local match will be for the funding source for this project. Including this project, the City of Choteau will have obligated \$44,028 of the \$138,412 made available through the CTEP Program.

Summary

Four on-system enhancement projects are being proposed for commission approval using CTEP allocations.

The Kalispell bike/pedestrian path project is estimated at a total project cost of \$195,886. The project is located near Woodland Avenue (U-6726) in the City of Kalispell and will be developed in accordance with all federal and state requirements.

The Great Falls library landscaping project is estimated at a total project cost of \$105,673. The project is located at the corner of 2nd Avenue North and 3rd Street (U-5218) in the City of Great Falls and will be developed in accordance with all federal and state requirements.

The downtown Great Falls sidewalk and landscaping project is estimated at a total project cost of \$152,633. The project is located along the east side of 5th Street South (U-5224) and along the north side of 1st Avenue South (U-5234) and will be developed in accordance with all federal and state requirements.

The City of Choteau sidewalk and landscaping project is estimated at a total project cost of \$28,063. The on-system sites include five locations along 7th Avenue/Division Street (P-9), and one location on 1st Street NE (S-221) and will be developed in accordance with all federal and state requirements.

Staff recommendations

Staff recommends that the commission approve the addition of these projects to the program.

Discussion

Chairman Kennedy asked if these projects were allocated for this fiscal year. Sandy was not certain which year the projects were allocated, but noted that often local government will hold on to their allocations for several years until they have sufficient money to build a project, she said very likely there were previous year allocations involved. Chairman Kennedy noted that the City of Choteau had allocated \$44,028 of \$138,412 and asked if their allocation for the year \$138,412. Sandy said that was cumulative.

Commissioner Howlett moved to accept staff recommendations to approve the Enhancement Program in MDT Right-of-Way. Commissioner Kottel seconded the motion. All five commissioners voted aye.

The motion passed unanimous.

Agenda Item 3: Bridge Deck – Rehabilitation Clark Fork – 11 M SW of Paradise

Sandra Straehl presented the following to the Commission.

Background

The Bridge Replacement and Rehabilitation Program (BR/BH) provides funds for the rehabilitation and replacement of deficient bridges. Structurally and functionally deficient bridges have been identified in Montana using the National Bridge Inventory (NBI).

The bridge located on Montana Highway 35 (P-35, reference point 12.258) spanning the Clark Fork River, 11 miles southwest of Paradise has been identified as structurally deficient in the NBI based on its deck condition.

Bridge Deck Condition

Approximately 10 years ago a section of road on MT HWY 35, which included this bridge, was paved and the contractor placed asphalt on the bridge deck. This was not a desired treatment for the bridge deck and the contractor was asked by MDT to remove the asphalt,

which was done by milling it off. The milling process cut down into the concrete bridge deck and the deck is now showing reinforcing steel and spalling of the concrete. This has placed the bridge deck in the functionally deficient condition and rehabilitation of the bridge deck is necessary.

MDT staff has identified this bridge as a priority and is recommending rehabilitation of the bridge deck to prevent the need for replacement. Work will be limited to the bridge and any necessary guardrail. The total estimated costs for the project are \$810,000 consisting of \$120,000 for preliminary engineering, \$90,000 for construction engineering and \$600,000 for construction.

This project will be let to contract based on other priorities within the bridge program and the continued maintenance of a fiscally constrained program.

Summary

The bridge located on the Clark Fork -11 Miles South West of Paradise has been found structurally deficient due to the deck condition. Rehabilitation of the bridge deck will prevent the need for replacement of the bridge. The total project costs are \$810,000 using BH funding.

Staff recommendations

Staff recommends that the commission approve the addition of this project to the program.

Commissioner Howlett moved to accept staff recommendations to approve the Bridge Deck – Rehabilitation. Commissioner Griffith seconded the Motion. All five commissioners voted aye.

The motion passed unanimous.

Agenda Item 4: Bridge Deck Rehabilitation Flathead River - Polson

Sandra Straehl presented the following to the Commission.

Background

MDT Staff has identified the bridge located on U.S. HWY 93 (N-5, reference points 61.036 to 61.327) as a priority for bridge deck rehabilitation. The bridge is 1536' long and narrow (30-foot roadway), and is the only link across the Flathead River that connects the east half of Polson with the west. As of 2005 the bridge carried 8,010 vehicles per day and in the summer a large percentage of that traffic consists of tourists.

Bridge Deck Condition

The bridge deck is evidencing spalling and potholes in some areas and the concrete has chloride contamination from long-term use of magnesium chloride and sodium chloride deicers. A 2006 bridge deck evaluation revealed that the chlorides have diffused down through the concrete, but have not yet affected the reinforcing steel. MDT Staff is recommending rehabilitation of the deck by removing the contaminated concrete and replacing it with a concrete overlay which will extend the bridge deck life significantly. The proposed project also has the advantage of maintaining an open lane for traffic while the work is being done.

Construction Impact

Delaying the rehabilitation project could require a complete deck replacement. In that event, closing the bridge to replace the deck it is not a viable option as the detour would be 36 miles long. The other option would be to limit the bridge closure to nighttime, and remove the deck in small portions and replace it with pre-cast panels. This option would be costly in time delays and construction costs increases.

MDT staff is recommending rehabilitation of the bridge deck to prevent the need for replacement. Work will be limited to the bridge and any necessary guardrail.

The total estimated costs for the project are \$1,200,000 consisting of \$100,000 for preliminary engineering, \$100,000 for construction engineering and \$1,000,000 for construction

Sandra stated that the funding solution that was suggested in the agenda item the Commissioners received was not feasible therefore the staff was developing an alternative funding solution. The actual cost of the project is probably close to one million dollars which is the entire allocation of maintenance funds to the Kalispell district and it is not feasible that all the funding go to a single structure. Therefore the replacement language that we felt reads as follows: “at this time the staff is recommending the preliminary engineering phase of this project be funded with the Missoula District’s National Highway Funds and those funds have been set aside in the Red Book. Funding options for the construction phase are being pursued and may include Indian Reservation Road Funds that are reserved for bridges or VR Funds once eligibility is developed for deck rehabilitation and preservations. She stated they were working with FHWA right now using the bridge management system to come up with an approach that will allow rehabilitation of bridge decks themselves to be eligible for that funding. They have submitted Level One eligibility for straight preservation work and the rehabilitation work and we should be able to get through that eligibility hurdle early in the spring. She stated they would be developing those two potential funding sources. Chairman Kennedy asked if it was \$100,000 of NH Funds; Sandy stated that was correct.

Summary

The bridge located on the Flathead River at Polson has been identified as a priority for bridge deck rehabilitation. Rehabilitating the deck will prevent costly replacement and rerouting of a major traffic thoroughfare on U.S. HWY 93 (N-5). The total project costs are \$1,200,000 using State Maintenance funding.

Staff recommendations

Staff recommends that the commission approve the addition of this project to the program.

Commissioner Griffith moved to accept the staff recommendations to approve the new recommendation for the \$100,000 for the rehabilitation project out of NH Funds for the Flathead River Polson Bridge. Commissioner Espy seconded the motion. All five commissioners voted aye.

The motion passed unanimous.

Agenda Item 5: SAFETEA-LU Earmark – On System – Taylor Hill Road

Sandra Straehl addressed the Commission as follows:

Background

The subject project received congressionally earmarked funds through the SAFETEA-LU authorization. These projects receive an annual allocation of both apportionment and obligation authority, and funds can be transferred between most named projects. Given this flexibility, projects may be able to advance to construction as soon as they are ready, provided that other projects are not disadvantaged and all funding accounts are balanced by the end of fiscal year 2009. It is anticipated that roughly \$2.55 million will be available from the SAFETEA-LU earmark for *Taylor Hill Road* located on Secondary Highway 234 (S-234). This project is located on-system and requires commission approval to add it to the construction program. MDT will provide non-federal match for the earmark.

The Taylor Hill Road (S- 234) project is located between the Rocky Boy’s Reservation Boundary and the recently reconstructed Beaver Creek Project to the east. The project is located approximately 20 miles south of Havre on Taylor Hill Road (S-234) from reference point 20.827 to reference point 23.427 and is 2.573 miles long. The anticipated scope of the project is reconstruction and realignment of the existing 24-foot wide two-lane facility.

MDT is working with the Bureau of Indian Affairs (BIA) to coordinate design efforts for this project. MDT will complete the environmental document, secure right of way, move utilities and award the bid on the project. At this time, MDT staff is requesting Commission approval of preliminary engineering for the project in the amount of \$450,000 to initiate preliminary design activities.

Summary

This agenda item is for the design of a project to reconstruct and realign Taylor Hill Road, an on-system Secondary Highway (S-234). A SAFETEA-LU earmark is the funding source for the project which is being coordinated with the BIA. MDT Staff is requesting commission approval for the project's preliminary engineering to be added to the program in the amount of \$450,000.

Staff recommendations

Staff recommends the commission approve the addition of the Taylor Hill Road project to the program for preliminary engineering.

Discussion

Chairman Kennedy asked who was going to do the project. Director Lynch said the Department of Transportation would be doing the project. We have been told to inform you that the MDT has had communications with Rocky Boy. There was an interest by the Rocky Boy to do this project but through the talks, they basically said they would like MDT to start on the process. He stated that would like to start on the TE and get the engineering design going and start the project.

Commissioner Kottel moved to accept staff recommendations to approve the SAFETEA-LU Earmark – On System, Taylor Hill Road. Commissioner Espy seconded the motion. All five commissioners voted aye.

The motion passed unanimous.

Agenda Item 6: US 93 – Big Arm Speed Limit Recommendation

Loran Frazier went over the speed limit recommendations for US 93 at Big Arm. He stated they were requested to do the Speed Study and have recommended going to a 55 mph speed limit through a portion of Big Arm. The recommendation has been submitted to both the County for comments and the Department received a fax letter from Lake County. Commissioner Howlett stated he took the time to go meet with the tribes, the tribal council and also the Lake County Commissioners because Lake County had initiated this project some time ago requesting a reduction in the speed limit through Big Arm and in both instances there was the desire in the governing body to have a transitional 35 mph zone through Big Arm. The recommendations that are outlined are that there be no change in the speed limit, but in examining the growth that is there and the amount of traffic through that particular community, and the fact that in all likelihood there will be continued development on the opposite side of the lake, traffic needs to be slowed down there particularly in the congested area right around Big Arm. Lake County has submitted their recommendations and the tribes were also to have submitted something but nothing has been received as of yet, but they were in agreement with the transitional 35 mph like the one in the community of Elmo.

Loran Frazier said that the speed limit of 65 mph through there is statutory (referring to map). He said the numbers initially indicated no changes however we noticed a reduction in speed through this area (referring to map); so the department is recommending a 55 mph speed limit though the portion shown in blue tape (referring to graphic). Lake County wants the 55 mph to start up here and come all the way around the corner with a section of 45 mph between 8th Street and 7th Street, then 55 mph out to here. Lake County would prefer that. Staff recommendation is different than that. Loran was asked if there was a school in the area; Commissioner Howlett stated there was no school but there were a lot of businesses and residences as well as travelers through the area. In the summer there is considerably more traffic and in the wintertime the traffic doesn't let up a whole lot on US 93. There is a lot of traffic on that road. Commissioner Howlett stated that he would like to see the Commission adopt what the County and the Tribes have requested that being the transitional 45 mph. He stated he appreciated the MDT staff for looking at the road, but noted the people who live there were willing to do the enforcement for what we put in place.

Chairman Kennedy asked if the Tribe was in agreement with the County. Commissioner Howlett stated they were in agreement with the transitional section but was unsure if their

idea was exactly the same but felt it accomplished the same objective. Commission Kottel said there were two different issues – one is to begin the 55 mph sooner than what the Department recommends and extend it out further, then there is the 45 mph transitional area. Commissioner Howlett was interested in the slower speed all the way through. In discussions with Lake County, they said the turnoff to the State Park has more impact in the summertime but since Montana doesn't do seasonal speed limits it was extended out to the State Park access. Chairman Kennedy asked what people were traveling on that road. Loran explained that it was above 55 mph; around 72 mph going into Big Arm State Park.

Commissioner Griffith said he didn't have a problem with 45 mph in Big Arm itself but did have a problem with going clear back to the Park. He stated that two months a year it was busy and felt there might be other traffic things that could be done there. Commissioner Howlett felt there needed to be a transition from 65 mph to 45 mph. Director Lynch said the 55 mph accomplished that. Director Lynch felt the county, the tribe and the department were in agreement other than how far the 55 mph should leave the Elmo area. He said that having driven that road he had concern about that area in the summertime because there was a grocery store in area, and it was a heavy boater area and there are two marinas there that attract people in the summertime. Commissioner Howlett felt it needed a 45 mph zone. Chairman Kennedy asked what speed the people were driving through that area now. Loran Frazier stated 56% of the people were driving 66 mph; so about half the people were driving the speed limit and the other half were less than 69 mph.

Commissioner Espy said they had received a lot of calls with complaints about the increase in truck traffic as well. The concern was the speed of the trucks going through there. Commissioner Howlett said there is a lot of north and southbound truck traffic that doesn't drive Hwy 35 because that is statutory 55 mph so they use US 93 rather than Hwy 35. Chairman Kennedy asked if it would be possible to start the speed limit at Skipping Rock Lane and go just past Gregg Lane. Commissioner Howlett said he could accept that. Director Lynch said that there was one access to all the development at Lakeside at about milepost 73 and the next access on the west side is right here (referring to map). Chairman Kennedy asked if Gregg Lane intersected with highway. Chairman Howlett stated yes. He felt extending the 45 mph zone that far should alleviate the problem. Chairman Howlett said there was also a group of people trying to put together a bike path so somewhere down the road that will be a consideration.

Director Lynch stated the road received quite a bit of patrolling from the Highway Patrol. He said one concern with speed limits is that you can create a lot of aggressive driving because the roadway will actually take faster traffic than what is posted and that is a safety consideration, however, that road receives quite a bit of patrolling by the Montana Highway Patrol. So because of the enforcement on US 93, the speed limit should be successful.

Commissioner Howlett moved to accept the recommendations to approve the US 93 – Big Arm Speed Limit Recommendation submitted by Lake County and CSKT; 55 mph from Skipping Rock Lane to Greggs Lane with 45 mph through the town of Big Arm. Commissioner Griffith seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

Agenda Item 7: Jefferson County – X-route 22926 Speed Limit Recommendation

Loran Frazier addressed the Commission and stated that he received confirmation on the speed study from Jefferson County. They did not receive written confirmation on North Tricia Street but they did receive verbal confirmation. He stated that both were in agreement with the Department's recommendations. They also received written concurrence on Whitehall.

This speed limit is for part of the X-route that goes north of Montana City. It goes from the intersection of the Secondary Highway at Montana City north and stops just short of the overpass that turns towards East Helena or South Hill Road. It currently has a speed limit of 70 mph and our recommendation is to drop it to 60 mph. We

have concurrence from Jefferson County. There is a very sharp corner that is currently 70 mph now. This particular road will be going straight with the South Hills interchange project that is going on. The corner will be an intersection and it will go straight with Capital Drive which will run all the way in.

Commissioner Griffith moved to accept the staff recommendation for Jefferson County – X-route 22926 Speed Limit Recommendation. Commissioner Espy seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

Agenda Item 8: X-Route – North Tricia Street Speed Limit Recommendations

Loran Frazier addressed the Commission and explained this was near the short intersection and the frontage road that parallels the highway in front of the Highway Building in front of the Pizza Hut. We are recommending a 45 mph. He stated they had verbal concurrence from the City. Chairman Kennedy asked if the City had given their approval in writing. Loran stated they had met with the traffic engineer and he concurred with their recommendation. We have asked for something in writing but we have not received it at this time. Loran Frazier noted that there was a portion of Tricia Street that is a City of Helena street which adjoins the state portion – we basically matched the zone on the city street. The department initiated that action.

Commissioner Griffith moved to accept the North Tricia Street speed limit recommendations. Commissioner Kottel seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

Agenda Item 9: MT 55 – Whitehall Speed Limit Recommendations

Loran Frazier addressed the Commission and explained there was a portion of the road near Whitehall where the Department would like to place a 60 mph speed limit. It is approximately 800 feet south of the intersection of Ryan Lane and continues north approximately 5,100 feet. The existing speed zone is 70 mph. There is a 45 mph speed zone that goes south of Whitehall on MT 55 and instead of jumping to 70 mph our proposal is to go to a 60 mph speed limit for 5,100 feet south of the end of the 45 mph speed limit. So it would go from 45 mph into 60 mph and then into the 70 mph speed limit. Commissioner Howlett stated it was about 1,000 feet past the railroad tracks. Commissioner Kennedy asked where Katie Lane was located stating that he didn't want that intersection within the 60 mph speed zone. Loran stated that Katie Lane was within the 45 mph speed zone; there were several houses and one storage shed in that area. Loran stated they have written concurrence from the Jefferson County Commissioners.

Chairman Kennedy stated he would like to have a copy of all the concurrences in the Commission file. Director Lynch asked that the verbal concurrence be made note of and also placed in the file. Chairman Kennedy asked that the name and rank of the person giving the concurrence be made note of. Commissioner Howlett stated the Commission should take the position of not acting on any recommendation without written concurrence from the County Commissioners. Chairman Kennedy said that no action should be taken without written concurrence or objection from the local body so we have something in the file. Director Lynch cautioned the Commission that even without written concurrence from the County, it was still their responsibility to determine speed change and they would not want that to limit their ability to take action. He suggested the Commission could instruct the Department to vigilantly act to get that concurrence in writing without limiting their ability to act. It was noted that if the local government requested the study then it would be appropriate that they respond to the study with their comments. If that study is

initiated by MDT then it would be nice to get that written response. Chairman Kennedy stated that whenever a speed study is requested by the county, they should always come back with it in writing just so we have a record of it. As time goes on and Commissions change and the make up of an area changes, we want a little bit of history in the file as to why we took the action we did at that time. Director Lynch stated that the when the department feels there should be a speed change, we don't do that without involving the locality such as County Commissioners and City County, but we also involve the community. Loran Frazier stated that sometimes getting concurrence isn't always possible but we do keep detailed records on all our speed studies. Chairman Kennedy said they did not mean to imply that everybody has to concur; we just want to know where they are coming from because the final decision is ours. If we have to take the lumps for it in the future, we just want to know where they are at. Chairman Kennedy stated that out of all our actions, speed zones are probably one of the most contentious.

Commissioner Griffith moved to accept the NT 55 – Whitehall speed limit recommendations. Commissioner Espy seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

Agenda Item 10: Letting Lists

Loran Frazier stated the Commission had before them the Letting Lists for December, January, February, March, April, May and June. He stated the whole letting list was a change from the last Letting List because of federal funding. Director Lynch stated that it would probably change again. He noted that the Department is paying very close attention to how jobs are being bid and the number of bidders for each job. The Department wants to make sure we are not doing anything in the way we bid our projects or set up a project that restricts competition so we can get the best price. We are looking at our bids now and in the future to get as many bidders as possible on these projects. Director Lynch asked the Commission to be flexible with the Department understanding they are trying to eliminate the difference between what's been estimated and what the bid has come in at because that is just causing projects to keep sliding backwards. Director Kennedy stated they were aware that the Department is trying to get the best bid price living within the constraints they have.

Director Lynch stated they have another issue that being cash flow of what money they will receive from the federal government. We think it is a tremendous benefit to the state and to the contractors to bid as much work as we can in the "off season", however, we also have to pay close attention to cash flow. We have to anticipate the federal dollars coming in so we may have to adjust our bid lettings based on cash flow. Chairman Kennedy stated that the contractors in the State of Montana should be patting the Department on the back because everything that is bid is dependent on the next fiscal year and whether we have the money. You have accommodated contractors all over by trying to get projects out so they can plan ahead and hit the ground running as soon as the frost is out and get going on the project. The Department has done an excellent job. I know these will change with time and whatever we approve will change next month, but I applaud the Department for working with the contractors to try and get those going and at least planned out. I understand your frustrations because we've had to pull back the last few awards because we haven't had the competitive prices and had to pass.

Commissioner Kottel asked whether they had received a Memorandum of Agreement with Ft. Belknap Reservation – did we get the Memorandum of Agreement or are we just going ahead with the letting in the hopes that we get it? Director Lynch stated that if the project was on the reservation we will not bid the project because we do not have a Memorandum of Agreement at this time. Loran Frazier stated they had moved it to February hoping they have one by then.

Chairman Griffith moved to accept the staff recommendations to approve the Letting List as presented. Commissioner Espy seconded the motion. All five Commissioners voted aye.

The motion passed unanimous.

Agenda Item 11: Certificates of Completion

Loran Frazier said the Certificates of Completion for the month of September total contract amount was \$6,796,875 and the total payment amount was for \$6,633,762. We recommend they be approved.

Chairman Kennedy asked about the railroad crossing southwest of Warden – the original contract amount was \$105,000 for the railroad crossing but the final figure was \$67,000, am I reading that correctly? Loran Frazier said yes, the prime contractor was Burlington North Sante Fe. The Department had estimated the work would be \$105,000 but it was completed for \$67,000, which is rare. Chairman Kennedy said the total for the Certificates of Completion was \$6,633,762 and he asked for a motion.

Commissioner Espy moved to accept staff recommendations for the September Certificates of Completion. Commissioner Kottel seconded the motion. All five Commissioners voted aye.

Motion passed unanimous.

Agenda Item 12: Local Government Officials

Chairman Kennedy asked if there were any local government officials who would like to address the commission. There were none.

Montana Refining Company – Price Adjustment Policy

Commissioner Espy introduced Allen Hobbs from Montana Refining Company, who wanted to speak to the Commission about the issue of asphalt, asphalt production, and pricing issues. Allen Hobbs addressed the Commission as follows:

Thank you for the opportunity to come and talk to the Commission. I am the Marketing Manager for the Montana Refining Company in Great Falls. You may or may not know not only are we the smallest independent refinery left in Montana but we are the smallest independent refinery that makes a full slate of products in the United States. I would like to talk to you about the asphalt price adjustment policy that was implemented in the last few months. Our opinion is that the price adjustment policy puts us, first of all, at a competitive disadvantage and secondly we think the pricing that it is based upon is easily manipulated.

If I can give you just a little bit of history about Montana Refining Company and asphalt in Montana, my firsts bid letting was January, 1982, and I have been the asphalt salesman for Montana Refining since then. Montana Refining Company at one time was Phillips Petroleum and was a test refinery where they tested new processing and new products. We were one of the first companies in the United States to manufacture asphalt emulsions. We made commercial emulsions in 1962. We were the first refinery in Montana to modify asphalt on our own – we put in the modification equipment at the refinery and bid the new modified products. In the 1980's we did not produce enough asphalt to take care of our market. We actually bought asphalt from outside of Montana and imported the asphalt into Montana to take care of our customers – we could not make enough asphalt. We were less than 10% of the asphalt market in Montana and today we are over half the asphalt market in Montana which includes highways, counties, cities, and the miscellaneous work that you see in parking lots, shopping center, etc.

What we had to do to take care of our market was to buy the asphalt and import it into Montana and resell it. We started thinking about building tanks and filling the tanks in the winter when there is no market for the asphalt and that would give us more asphalt to sell in the summer, we wouldn't have to buy it, mark it up and resell it, we could sell more tons that we make manufactured in the United States. So we started building new tanks and we are currently building another new tank – a 6.3 million gallon tank. It is the biggest tank we've ever made. When this tank is completed we will actually be able to store three times as much asphalt as we used to store in the winter time. We started filling then in November

and our tanks will be full in May when the season starts. Of course the goal is to be empty next November and build inventory over the wintertime and sell it again in the summer of 2008.

So why does this policy put us at a competitive disadvantage? We are filling the tanks today; our cost is fixed on what we put in the tanks now. If the market moves, i.e., it moves up we could make an additional margin on what we put in the tanks. We don't necessarily like to make more money off our biggest customer. The Highway Department in Montana is our single biggest customer. If you take the gas, diesel fuel, jet fuel, the military, the Highway Department in Montana is our single biggest customer. We do not want to take advantage of you if the market goes up, nor do we want to lose money on our fixed costs if the market goes down. So we are looking at a loose-loose situation. If it goes up, we've lost the volume that we built these tanks for; if it goes down, we've lost money on our costs.

Now the other reason that we are at a competitive disadvantage is 90% of our asphalt is sold in Montana. We do not ship asphalt out of the state all the time. Some years we are more than 90% and some years we are less than 90%, but basically we make asphalt for the Montana Department of Transportation and our other contractor customers. If you look at our competition which is Cenex and Exxon in Billings and Laurel, they sell about 90% of their asphalt outside of Montana. They have huge rail facilities that we don't have. They sell on a daily basis into Wyoming, the Dakotas, Nebraska, Colorado, Idaho, California, Texas, the East Coast, and wherever they can reach with their rail cars. We have a very limited rail facility. Our market is Montana and our biggest customer is the Montana Department of Transportation.

Because we have built these tanks, we can't turn our inventory as quickly. It takes us five or six months to fill the tanks, our competition moves their inventory in a two or three month timeframe sometimes in a month and half because of filling tanks for delivery next summer they ship it out of state by rail. I think Cenex told me that they have 900 rail cars. At our site if all we do is load cars, we can move four at a time; they can load dozens at a time. Their market is different so this price adjustment treats us differently than it treats our competition. If the market moves down, we have all our inventory in tanks; our costs are fixed and we are hurting. If the market moves down and they turn their inventory over two or three times from the time they bid the job and deliver the job, they are not hurt like we are because they've already turned that inventory over.

In the past we've always been a fixed price for the client. If the job was supposed to pave in 2007 and moves to 2008, we always honor our client. What you have been faced with over the past two years is sub-suppliers not asphalt. With steel and concrete you've probably heard this before, all of a sudden you get a job and the contractor is stuck with a firm price to you and the steel suppliers says "wait we are not supplying at that price, this is your price." If you've had a job where the contractor says, "my concrete supplier doesn't have it and if I buy the concrete somewhere else, my costs have gone up terribly." So I know darn well with what happened in other states last summer that you got a lot of pressure from contractors saying you have to protect us on asphalt. I'll give you an example. In Wyoming last year for the first time ever we sold a couple of truck loads of asphalt to Wyoming. The J-Tail Supplier in Casper said they weren't making asphalt. A guy in Denver called who had six hot plants and he said he had two suppliers and both called within the hour to say they were no longer making asphalt. We did not take on any new customers, we honored every contract we had both written and oral for the prices we quoted as long as two years ago. We honored every contract we had. We supplied every ton, we did not allocate, and we did not raise the prices. I think you can say the same thing for Cenex but I can't say that for Exxon because I don't know but I know Cenex honored all their contracts also.

So you had a reaction from the contractors because of what was going on in other states. I'm sure they put a lot of pressure on you to let them give more money to the asphalt suppliers or they won't supply us if the market goes up. Again, if the market goes up and my costs are fixed, I don't want to take advantage of the situation and stick you with higher prices because you are my biggest customer. I don't want you to come back and say "well the market has gone up, we've had to pay more than what we've contracted to supply at, so we are going to reduce the jobs" because I just filled the tanks to take care of more jobs and we spent a lot of money to do that. So again, it is a loose-loose situation on the competitive disadvantage for us because we have to deal with the Montana Department of Transportation. That is what we are designed to do and that is what we've done for 25

years, and I think we've been a good supplier for you over the years. You've been an excellent customer for us and we've always appreciated it.

The other thing that bothers me about this is how easy your base price can be manipulated. You're using a base price for Montana/Wyoming. You've got three suppliers in Montana that manufacture asphalt – Exxon, Cenex, and Montana Refining Company. Exxon has a company policy that they do not provide their prices to outside agencies. Cenex told me face-to-face they don't give them any numbers and I can tell you I don't give any numbers. So where do they get the number they use to set the price for Montana/Wyoming. Maybe they are getting the price from Cheyenne – Cheyenne is not Kalispell. You are looking at 1000 miles difference. You can't say that the price that is effective is Cheyenne is also effective for Kalispell or Malta. You can't say Casper is the same market as Billings. There is too big a geographical difference. If they are not getting the numbers from the Montana suppliers, where are they getting their numbers? I went to a presentation they put on and the guy who puts the numbers out was asked where he got his numbers and he said they call the important people in the markets. The next question was "do you think they ever lie on their prices?" He said "of course they lie." So this was how he came up with his numbers. He said "I sit down and I figure out where the market actually is." That is one person. You know that in the past Platt's got in a lot of trouble because their postings were manipulated by Enron; they got in big time trouble. Now when Platt's makes a posting for diesel fuel for price adjustment, they go to a market where there are at least eight separate price postings, and these are public price postings, these are not in-house price postings and they are not bid price; this is the price that if you go to their rack you can buy diesel fuel for. There is no such thing as a rack price for asphalt where you can just walk up and it is posted. There is no such thing as a posted rack price for asphalt made public in Montana.

So now let's compare the numbers that Poke and Parker says were in effect in September. They said the market in Montana and Wyoming was a low of \$300 and a high of \$350. Here is a copy of my invoice for \$200 per ton dated September 5th. Here is my copy of my invoice for modified asphalt for \$300 per ton. Here is a copy of an invoice for September 5th for \$200 per ton for asphalt. Here is another one from a different customer in Hamilton that is for \$200 per ton for asphalt. They said the minimum price was \$300. So I'm already behind the curve by \$100 per ton. Either their number was bogus or I don't have a chance of coming out on this field.

So we go from there and in September I normally put my quotes out early because, as everybody knows, the night before bid letting is a circus. Sometimes you can't get a hold of contractors and it is big deal so I normally put my prices out the week before. I put my prices out the week before the September bid letting, and the Monday of the bid letting the new price adjustment was put on it and I was not aware of it, I'd already quoted the job. I picked up every job – that's how low I was. I saved the Highway Department a quarter of a million dollars in September. Now what does that tell you? Either I don't know the market or I'm really cheap or I'm giving away asphalt or I made you guys a super special deal or the people who knew about the system raised the price from the outside. I don't want you guys artificially forcing the market up because you are my best customer and I don't want you to pay less and let me go into the winter with a whole bunch of asphalt in the tank because there is no market for it.

In September I only bid the one job in Great Falls because it was big enough at \$150,000. Of course at that time it was the equivalent of \$20 per ton. I can take a swing at \$20 per ton, no problem, so I bid the job in Great Falls and I saved the State of Montana one half million dollars. I bid it as I normally would bid it based on my costs of what was in the tanks at that time. You saved one half million dollars in comparison to the next best bid. Again, I'm not trying to give money away, I'm saying this is my costs, they are fixed, this is what it costs me to operate and I'd like to bid on that basis, and I want to give you the guys the fixed price so when you look at what the jobs were you say "you know what, we know what we are going to pay for asphalt next July." I'm saying it is one million dollars and I covered my costs and I don't have a down side. I don't have a problem with a policy such as the diesel policy where you deal with the contractor who if he wants to buy futures and give you a fixed price, you can have a fixed price. Or if the contractor can tie it to the Platt's market which has a minimum of eight public posted prices and if it moves we move.

Now because of the way the refineries in Billings operate outside of Montana and because they have the rail access that we don't have and the rail facilities we don't have, they may

prefer this. That's fine. I just want the choice to have a fixed cost in this tank, my inventory is a fixed cost, I will sell it to you based on what it cost me to put it in there and to operate. I don't want to take advantage of you if the market goes up, and I don't want to lose money if the market goes down. You've probably had a lot of pressure on you from what was going on in other states. I think you probably had a lot of pressure on you from Contractors who were really afraid that maybe they would not get the supply they wanted if the market went up. We want every contract. We intend to honor every contract. We intend to continue to make asphalt as we have in the past and in fact we hope to improve our ability to make additional products in more volume. The refineries in Billings are putting in new processors called "cokers" which means they are going to make less asphalt and they are going to turn a percentage of the asphalt they are making into gasoline. Exxon has that at their facility now where if the price of asphalt is good they make asphalt or if the price of asphalt is bad then they make gasoline. Cenex is spending \$360,000,000 to do that and their process will go in next fall. Conoco has already done that and they have already gone out of the asphalt market. We have no intention of putting in a "coker"; we have every intention in the world of making a lot more asphalt than we are now. We are making 25% more asphalt today than we did a year ago. Our refinery is tied to asphalt. That is what we do. We make asphalt. Thirty-six percent of our product is asphalt and you guys are our single biggest customer. It is very important that we get along with you, that we don't aggravate you, but I've got to tell you straight up that this system does not allow us to be ... it puts us at a disadvantage. I don't trust the base numbers at all. If you want to look at these invoices, these are copies of them and these are the prices. When they said the lowest price in Montana/Wyoming was \$300, we were still selling at \$200. We cannot allow a number that is 50% off when we are tied to it for next year's planning.

I thank you very much for the opportunity to explain our side of the situation. I just hope that you can give us the opportunity to give you fixed prices and to continue to sell you our product.

Chairman Kennedy thanked Mr. Hobbs. He told the Commission that Mr. Hobbs has brought forward some issues and those issues will be given to Director Lynch and he can come back to the Commission with his analysis. Director Lynch said he would be more than happy to do that and noted they had conversations with the contractors who were the ones who instigated the price escalation because they actually informed the Department they were bidding higher prices into the projects because they had to speculate on asphalt. We are constantly looking at this. Our main purpose is to make sure the taxpayer receives the benefit. Director Lynch clarified that Montana Refining does not sell product to the Department of Transportation; it sells to contractors. Our contractual obligation and the price escalation clause is to the contractor it is not to the supplier. I think we have to be real careful there. The price escalation clause does not preclude any supplier from bidding firm. Just because the price escalation clause is there doesn't lock a supplier into the price on the project; that is really between the contractor and the supplier and their contractual obligation. He wanted to make sure the Commissioners understood that. The Department is constantly looking at the price escalation clause from the standpoint of what is in the best interest of the taxpayer and what is allowing these projects to be priced accordingly. We've had the price escalation clause and we have not seen a decrease in asphalt prices. It is hard to really come up with whether or not it is working. Director Lynch proposed to come back at the next meeting and bring the Commission an analysis or why the Department is doing what they are doing and what impact it may or may not be having on contract prices. Commissioner Espy thanked the Department for doing that saying that he realized our obligation is to the taxpayers but as you look at it we want to be fair to everybody because if we are not fair to suppliers and fair to the people who purchase the product and then fair in a way that produces the lowest bid to the taxpayer. Every new good idea may work or may not work. We have to protect the market.

Mr. Hobbs said that was correct that they do sell to the contractor and then the contractor sells to the State. When the market goes up and you notify the contractor that the price went up thirty bucks, he is going to keep it. When the market goes down ... (inaudible) ...

Commissioner Griffith asked about the future stating that he is hearing through the industry that the future of asphalt is going away with the advent of "cokers". There is grave concern in other markets not necessarily Montana, about that. He said that for twenty or thirty years he was buying asphalt for \$200 per ton, it hasn't done much when gas has gone up three times. Director Lynch said he had a little bit of experience in the asphalt markets and it

really depends on the crude base and depends on what your market it. A lot of companies have gone to “cokers” because the refining process of that crude oil generates products they can sell. It is still up and following the demand for asphalt gets to the point that we can get the price up around “coke”. Coke is up right now to generate more fuel where they are getting good prices for. Commissioner Howlett asked if once they made the change to “coking” can they go back? Director Lynch said they could but not without cost. They would have to pay the cost. They didn’t have “coke” to begin with and they changed to “coking”, so it is not inconceivable to go back but I doubt they would. Chairman Kennedy said they were just at Exxon the other day and Exxon gave them a tour through the “coking” facility and through the Cenex facility. He said their public works was very nervous about it. He was glad Montana Refinery was going to stay with asphalt because you are going to see very little coming out of Cenex and nothing is coming out of Conoco right now at all and Exxon is reducing – everybody is reducing so you will see very little. We asked the same question of both of them: “are you going to still supply to the local areas?” So you are going to see that the big refineries are going to start selling another product and that product is going to be shipped out so you are going to have less and less competition in the State of Montana. That is where we probably need to focus with the Highway Department – the less people who are offering the service in the competitive market that could have us over a barrel too. Director Lynch said that was nation-wide and not just in Montana, again based on the crude supply. Chairman Kennedy said they would give this to Director Lynch and have him come back to the next meeting.

Chairman Kennedy asked if there were any other local government folks that wanted to address the Commission.

Senator Baucus Staff

Cassena Davis from Senator Baucus’ office said she had a few points to bring up. South of Havre 234 on Rocky Boy Reservation – we visited with them when the Senator was here and one of the issues they brought up was that they would like to be getting more of the transportation dollars that they could control. I will get back to the Senator and let him know that you have been talking to them. Big Arm has been an issue that we are getting a lot of letters on. Going to the Sun – Senator Baucus was working along with the Highway Administrator as far as the flooding, and I know that is not MDT, but I thought you might be interested in an update. Sandy is doing to construction up there. The good news is the public land fund seems to be underwriting most of the cost of that. The bad news is that every transportation project in the State now thinks it is in an emergency if it is not getting its full funding this year and they are calling our office saying they have an emergency because we can’t finish our project. The Beartooth – besides setting fires in that town literally, we are now talking to the Wyoming delegation and they are pursuing us and are very happy to work with us. We are still looking at the language change. We think we have a vehicle for that but of course we won’t see any of these changes or any of this legislation passing until next year because of this lame duck process. The Kalispell Bypass – thank you Sandy for all your help and getting our staff educated, it has become a very political issue in the sense that if there is a failure to fund, it is because of the possible election outcome. So we are getting a lot of input from constituents on that. Again we will ask the Commission to stay in touch with the issues on the local level. The local press is playing it big up there so we ask that you continue to stay in touch with the local people there who have concerns about that Bypass. Cladeth Hill – the Commissioners in that area have been contacting our office looking for additional funding so we are looking at some kind of vehicle to work with that. Sandy and Lisa have been in touch with you on that. Looking at the landslide at about \$1.5 million and we are looking at some additional funding. Shiloh Road – we are looking at an \$8 million earmark and an addendum getting that attached to a bill in January. The wording on Beartooth – we are looking at that and we think we have a vehicle for that and we are not anticipating any problem.

Director Lynch noted that at some time there would need to be discussion on what a permanent funding stream would look like for the Beartooth. Cassena Davis said absolutely and noted she and Lisa Walker, the Legislative Aide, have created a folder in which as these things come up they are put into that folder. It is kind of a brainstorming folder so no project or highway is orphaned or forgotten in the next funding bill. Director Lynch noted that it was not in relation to our work there; it is the remaining work that needs to be done on the National Highway on the Wyoming side to get that up to speed and then working with the Park Service to get them the revenue needed to get that opened by Memorial Day

like the Montana side and our commitment to maintaining their side. There is a funding gap for that highway. Cassena noted that part of the pressure is the Memorial Day deadline to get it opened. Chairman Kennedy said that with Senator Baucus taking over as the Chairman of the Finance Committee and still staying very active with the Environment Public Works and the next highway bill, he asked if Senator Baucus wanted to have a conversation with Director Lynch and the Highway Commission. If so the Commission could schedule something at our next meeting or the following meeting and have a conversation with him – we could probably set that up by phone. Director Lynch said Senator Baucus has been a tremendous help to the State of Montana, not just in highways but in other areas as well. He has worked very closely with the Department of Transportation and the projects he earmarks are projects which are very important and projects the community expects and the community needs. He and his staff have done a remarkable job for us. Cassena Davis noted what a good working relationship they had with the Commission and thanked the Commission for all their work.

Agenda Item 12: Change Orders

Loran Frazier addressed the Commission and stated they had change orders for the month of September. The total is about \$1,593,000. Commissioner Howlett asked what percentage was compared to the total amount of contracts they had out. Loran said it was 3.4%. Commissioner Kottel directed the Commission's attention to the summary sheet which showed the total change orders for Great Falls were \$13,968. She noted that change order happened to be for Walgreens and I believe that goes back to the developer itself. I believe it may actually be a zero which again is phenomenal.

Commissioner Espy moved to accept staff recommendations to approve the project change orders as presented. Commissioner Kottel seconded the motion. All five Commissioners voted aye.

Motion passed unanimous.

Agenda Item 13: November Bid Letting, Delayed Projects

Loran Frazier addressed the Commission stating they had two projects from the November bid opening that they chose to delay and further study to analyze those bids. The first one on the list is the Turn Bay – 13 km S of Livingston. There were two bidders. We went through and looked at that quite a bit. We researched the engineer's estimate and found there are a couple of adjustments to be made. Our engineers made every adjustment that could be made that we feel reasonable about and even with the adjustments the low bid was still 17% over our adjusted engineer's estimate. The first one was 33%. Our guidelines for award for a project of this size is 15% and it is still 2% out. It is south of Livingston, the work is for a left-turn bay on the highway going south of Livingston – the Pine Creek Interchange. Our Construction Engineer, Mark Wissinger, is retiring and I would like to introduce Kevin Christianson our new Construction Engineer. Looking at Pine Creek we are uncertain if we bid it again that we would get any lower bids, however, it is outside guidelines for award. My recommendation is that we do not award it and bid it again later this spring.

The second project is Cherry Cr-7 km North of Terry. We did some analysis and received a letter from Sletten. We analyzed our engineers estimate and our adjusted engineer's estimate, their bid is within 9% and is within the guidelines for award. We also went back and looked at the adjustments we made on this and adjusted them to the contract originally let in August to see if the adjustments that we have now would have affected our decision in August. They do not. In making all the same adjustments we made at the November letting, if we went back and did that in August they would still be the low bid and would still have been within the guidelines for award. Our recommendation for that is that we do award it. It is within guidelines and we went through our process.

Commissioner Howlett said he recalled in the letter from Sletten there was some inference about the process and whether or not it was above board so I was quite supportive of the

Department re-examining the entire process. If they've done that, then we are in compliance then I would move to adopt the recommendations provided by staff.

Commissioner Espy said she echoed what Commissioner Howlett said. We were very insulted by the term in the letter of "bid shopping" and I really felt it was an unfair accusation to the Department so I'm glad that they are willing to re-bid. Commissioner Kottel agreed and said she found the argument not to be logical. If the entire bid process is tainted when you re-bid then you could never re-bid a project ever and how could that be. Second, everyone had exactly the same information and so the fact that another contractor understood what other contractor's bid, certainly Sletten also understood what other contractors bid, so all the information was available. But the second most important thing was that everybody was also told what the engineer's estimate was which does not happen prior to the bidding so everybody again was on an equal playing field. So if another contractor had information and used it to their advantage in a way that lowered their bid, so be it. I don't see how that could taint it. Everybody had exactly the same information. Was the situation exactly the same as the first time you bid it? No because more information is made public but it is exactly the same for everybody bidding. I don't see how that creates an unfairness. Chairman Kennedy said the concern he had was the tone of the letter a saying that we were not ethically doing this correctly. I have a real problem with it because if you remember a few months earlier, I think this company received a bid through the same process of a re-bid. I feel the Department has done a good job. I'm glad we did delay, we went back through and waited to look at the whole process but I don't think the process is tainted. I just want to make sure we are on record knowing that the Department did everything and we addressed the concerns. I do have concerns with contractors coming back and pointing fingers at the Department saying we did not do these things correctly because I think you folks are very methodical in going through all of this and I think we did a good job. He thanked Loren for going back through and looking at all of it.

Commissioner Howlett moved to accept staff recommendations of awarding the Cherry Cr-7 km N of Terry and re-bidding the Livingston Turn Bay in the spring. Commissioner Espy seconded the motion. All five Commissioners voted aye.

Motion passed unanimous.

Agenda Item 14: Commissioner Discussion

White Cross Guidelines

Director Lynch said that at the last meeting we talked about the White Cross Guidelines and you asked me to contact the gentleman in charge of the VFW and invite him to come talk about the White Cross process. I did contact him and he said he would love to come talk to the Commission, however, he wants to wait until the weather is more suitable for him to come here possibly sometime in the early spring. We spent a long time talking about the white crosses and what the VFW is trying to achieve. He wanted to make it very clear that this is a traffic safety issue, and not a religious movement. It is to inform motorists of traffic deaths that took place at that point and bring attention to the need of driving appropriately. Now what individuals take that cross to mean is just really a benefit. If they feel the significance is important to the family then that is just an added benefit.

I talked a little bit about the suggestion of memorials because I wanted to see if he had any concerns that memorials would detract from their program and he doesn't feel it would detract from their program at all. They don't have any problem if the State were to do memorials in addition to white crosses because that is really not their intent with the white cross process. Their intent is actually to bring awareness to the motoring public that there has been a fatality on a particular roadway with the hope that would affect and change the way they are driving. The Department will look at some other things they are doing to make their program a little more effective, i.e., informing the public as to what the white cross means and that means roadways entering into the state having a sign talking about the white cross program and identifying it as VFW, and possibly also marking the particular roadways like we do with litter pickup i.e., "white crosses are put here by the Libby Chapter of the VFW". So we are going to address those issues with them. I'm also going to deal with Sandy's office when we do the new map to get a little corner in that map that talks about the

white cross program and what it is about so the motorists coming into our state can look at a map diagram and see what the white cross program is about in Montana.

Chairman Kennedy said that the white cross is just a symbol for a death and doesn't have a religious connotation. He noted that after traveling over in Israel and seeing the diversity in the country of Israel it really came to light that all we are doing is a marking on the highway and it happens to be a white cross. The symbol of a white cross, most people in the State of Montana and other states, know it is just a symbol that someone died in an accident there. As we go forward on this I don't think the crosses are taking away from the religious background of any group. If we do a memorial we need some continuity. I'm just thrilled the Veteran's of Foreign Wars and the American Legion are willing to do this. You don't get too many groups these days that are willing to go out— it is really tough to find the Highway cleanup people any more.

Director Lynch said that the white crosses also have been discussed in their organization and they talked about doing hearts or different things, but they felt the white cross was very symbolic and standardized across the United States as to what that means. Secondly their white cross material is made by many different welding shops and the cost to produce the cross versus something else is far less and is far easier to make and be consistent in the design throughout the entire state than to switch to a different emblem. They said they actually thought of looking at different emblems and have just agreed to stay with the white cross.

Commissioner Howlett said he appreciated the work and the research that has gone into this. He stated what he wanted from the start was something that was available for the public to go to when they chose to put something along the highway, in this particular case the interstate system. That was what I originally started with but I think it has grown into more and I'm glad for that. The issue of the memorial versus a safety thing, it can and does serve multiple purposes. I'm appreciative of the work, I think that the memorials I've personally established do incorporate that but they also incorporate some other things. They don't happen to be on the right-of-way of the interstate system, but if this comes to pass then I'll move it onto the right-of-way of the interstate system. I want to thank the Department for the research they've done. I just want the traveling public and the families of people who have lost loved ones on the highways in Montana to be able to know where a tragedy occurred. It makes us all safer as a result of it. So I'm willing to go forward with this.

Chairman Kennedy asked Director Lynch to schedule it for one of the spring meetings. He stated they would love to meet with him and hopefully the Commission would have some guidelines by the spring. Director Lynch stated they have guidelines as of 2003. The VFW was encouraged that we were considering looking at it again to see if there were other ways in which that message could be made clearer to the public. He said the Department would refine that and thought it would be appropriate when that happens that the VFW receive a great big thank you from the Commission. This is a tremendous effort they undertake in this State and they do it at no cost. Chairman Kennedy said that when he comes to do a presentation, the Commission could also present them with a plaque thanking them for their work.

Agenda Item 15: Public Comment

2005 Contractor's Estimating Outstanding Achievement Award

Loran Frazier stated that the people who do the engineering estimates in the Contractor Plans Section there were six people who received the "2005 Contractor's Estimating Outstanding Achievement Award" at the national level, presented by the Administrator of Federal Highway Administration. That was awarded to the Montana State Department of Transportation for exceptional accomplishment in estimating federal aid highway construction projects. Between engineer's estimates and the award amount Montana had the lowest difference in the nation when we totaled it up for 2005. Chairman Kennedy asked the size of the staff. Loran said the staff totals eight. Chairman Kennedy asked that Loran read the award for the Commission at the next meeting so the Commission could personally recognize them and thank them. Loran said he tried very hard to get them to come up today;

but they are all pretty shy and they said he could take it. Chairman Kennedy said it would be a formal request from the Commission for them to come up. Director Lynch said it would be appropriate to bring all the staff. This award was in recognition for the river project that the Department of Transportation did. The U.S. Department of Transportation is also issuing an award to the State of Montana for their efforts and work on the Beartooth Highway. He said he felt it would be appropriate to set aside some time and bring those people in before the Commission. Chairman Kennedy said so many people do a lot of work and national recognition is really something and the Commission should recognize that. Director Lynch said the Department recognizes those accomplishments a number of different ways along with a letter that he puts out to all department personnel and he felt it was well deserved to bring them in before the Commission for recognition. Commissioner Espy said it would also be nice to have a press release go to all the papers in the State. Director Lynch felt it would be a good idea to have a press release once a year that would list all the awards the Department has received throughout the year.

Commissioner Griffith said that as he sat and listened to all the bids today, given all the frustration and level of concern we had over the 22% increase in costs last year, there was only one bid that was over the estimate. As an administrator you well know there is nothing worse than the engineer's estimate being the low bidder. He felt this award is really important because to earn this they had to be within three percent. Loran Frazier said that engineer's estimates for that period were \$207,377, 115. 88 and the final close out on the projects after change orders was \$208,350,118.09 for 3.4%. Commissioner Griffith said that was pretty impressive.

Thank you from Commissioner Howlett

Commissioner Howlett said as we wind this year down and some of us wind our terms down, I wanted to say a few things. My term will expire in January. I have let it be known that I would like to be re-appointed. It took a long time to learn this curve. I believe I have served this position well and I've served the people of Montana well, but we will let the people who make the decisions decide that. I know Deb will be leaving this Commission and I want to say that it has been a real pleasure and a real honor to work with you and I just want you to know that you've served the people of Montana and particularly the Great Falls District well. I've said this before and I'll say it again about my friend Nancy – she has served two terms on this Commission and some of the best roads in Montana are down in the southeast to Nancy's credit. However some of the best roads in Montana are in all of our districts and that is to Nancy's credit too. Nancy, I know you've had some health issues and you've had some logistic issues and yet you jump on airplanes and ride in police cars and do all kinds of crazy things to get here to serve the people of Montana and I'm forever indebted to you for your counsel and your friendship. To the rest of you I just want to wish you a very Merry Christmas.

Resignation of Commission Kottel

Chairman Kennedy said the Commission received a resignation letter from Commissioner Kottel. He said the Commission was very appreciative to her and they would forward that letter on to the Governor who will be making the appointments. I want to just note that you folks do serve to the next board meeting. So we will assume that all of you will here for our next board meeting and then from there we should know how the Governor will rule. Director Lynch said that Deb Kottel could not serve into January because she is an elected official, so she can't serve to the next meeting. He stated that he didn't want to do this at this meeting because it is the Governor's business and the decision will be made at the appropriate time and an announcement will be made at that time. Whatever the situation will be I would like to have you all back again at our next Commission meeting, whether you are on or off, and recognize everyone for their efforts over the last year. I just don't want to get ahead of our Governor. Chairman Kennedy said he would like each Commissioner to mark their calendars so that everyone would be here for the next Commission meeting and between now and then we will know who is on the Commission. We know Commission Kottel is coming off but we hope we can schedule a time to make sure you can be back with us. Chairman Kennedy thanked Commissioner Kottel for everything she had done and said the Commission looks forward to working with her in the Legislature but would like to formally thank her at the next meeting. We will go ahead and accept your letter of resignation and send it off to the Governor.

Commissioner Espy asked about Custer Country Trail in southeast Montana – they are working with Wyoming trying to get more traffic to come down Highway 212. They are going to the Legislature to have Hwy 212 re-named. I just wanted a little information on re-naming a highway. Director Lynch asked if they were putting a name to it like a memorial. Commissioner Espy said she thought so and said they want to bring in the Native American influence of the trail. She said she knew you could make a memorial highway but didn't know the steps involved in the process. Director Lynch said either the Commission could name a highway or the Legislature could do it. Chairman Kennedy said it was just like naming the Robert Ewing Memorial Highway, the Commission went ahead and adopted it and named the memorial road, and now it was going to the Legislature to make it permanent. Senator Smith is going to carry that piece of legislation. Director Lynch said it was a Resolution not legislation because the official action was done by Commission.

Commissioner Kottel thanked Kevin for his kind words and said she appreciated it very much. The little pamphlet entitled "Building a Road Takes a Long Time"; she said it really does take a long time. The continuity of the people who take our places from our districts is a wonderful thing because they have a well-worn path to walk on. Then they will receive their rewards very quietly when the new Commission comes in. I also sent my letter to the Governor so we will see what happens there. It has been a great honor to serve on this board.

Legislation to Change Derogatory or Offensive Road Names

Chairman Kennedy stated that Senator Larson out of Billings is carrying a bill regarding derogatory and offensive names of roads throughout the State of Montana. Instead of looking at certain names and changing them with every piece of legislation he has put together a bill that will affect the entire State. It will change names of local, county, and state roads. It will also have to have criteria as to what a derogatory or offensive name is. We are asking the Department to help us put together the criteria on exactly what is an offensive or derogatory name. It will include a Governor appointed six member panel that would include local governments, tribal members, and a variety of folks. It will also include a compensation piece such as for road signs, and for people who live on the road who do not want to change the name, so rather than a "takings" we would compensate people for their time and effort to change the name of their street, etc. Name changes probably create more problems or emotional trauma with people than anything else. Even if you don't change the name of the road and just change the address they've had for 35 years, it becomes very emotional. They do have to change their bank statements, deeds, and all that, and people's time is worth something too. So those are the three phases we will be coming back and asking the Department for some help as we go forward with the bill. Instead of looking at changing one name of one road in the Legislative process, we want to make sure we have a piece of legislation that can cover everything – not just one group but all groups of folks across the state if they feel a name is derogatory or offensive. It's taken about eight months to go forward with this; it's been thought out and looked at. Senator Larson is carrying this because there is a road in his district that has become controversial. We want to put some of this to rest but we also want to make sure that we have something that works across the State of Montana. So we will be coming forward with it and asking the Department for some help. Director Lynch felt it was a more controversial issue at the local level than at the state level. The City of Helena tried to change Cedar Street to Last Chance Gulch and that just blew up all over – that was a big controversy here in town. Chairman Kennedy said they were just dealing with derogatory and offensive names in this piece of legislation. Director Lynch said it was the "changing" that was the problem. Chairman Kennedy said they felt they needed help from a body that was one arm's length away from the situation that deals with roads all the time.

Vigilante Trail Request

Commissioner Griffith noted he had a request from an economic development group from Ennis, Virginia City, Twin Bridge, and that area, who would like The Vigilante Trail to go as far as Butte and as far as West Yellowstone. He did not have an official request at this time.

Agenda Item 16: Next Commission Meeting

Chairman Kennedy stated the next Commission meeting is scheduled for February 22, 2007, which will be in Helena. We will have a conference call on December 18, 2006 and then another conference call on February 5, 2007. Our next board meeting is February 22, 2007. If Director Lynch needs any of us at the Legislature, he will call for any help we can give him.

The last thing I want you to think about before you leave today is that we do have some Commission meetings that will be in districts and we need to talk about those at the February 22nd meeting so we can schedule for the whole year. If there is nothing else, I wish everybody Happy Holidays and have a great safe holiday season. At this time we stand adjourned.

Bill Chairman Kennedy, Chairman
Montana Transportation Commission

Jim Lynch, Director
Montana Department of Transportation

Lori K. Ryan, Secretary
Montana Transportation Commission